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Date 1-3-86

Surname [REDACTED]

[REDACTED]
NOV 19 1985

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated on [REDACTED], under Chapter [REDACTED] of the Revised Statutes Annotated of the State of [REDACTED]. You were formed for the purpose of improving the health and welfare of persons by providing certain health care services to health-related organizations located both within and outside [REDACTED] and for performing and providing clinical services to health-related organizations which address the physical and mental needs of the community at large; provided, however, that you will operate exclusively for the benefit of [REDACTED].

You say that you will initially acquire a mobile CT Scanner and will transport such equipment by trailer to various hospitals within the [REDACTED] region. Each participating hospital will contract with you and will pay for your services. You may acquire other medical equipment or additional CT Scanners to expand the scope and amount of health care services which you intend to provide to hospitals. Further, you say that you are a wholly-owned subsidiary of [REDACTED], also a non-profit voluntary corporation organized under the laws of the State of [REDACTED], in the sense that [REDACTED] is your sole member.

You will provide health care services to regional health-related organizations, which currently do not have available resources to purchase sophisticated medical equipment. The services will not only be furnished to hospitals that do not presently provide such services, but would also be used to supplement the CT services already being provided by certain hospitals such as [REDACTED]. Your net earnings are to be utilized to expand your role as a regional provider of clinical and other health care services to the region.

Hospitals will contract for your services. Prices will be competitive with for profit entities providing similar services. At present, [REDACTED] serves as the sole corporate member for [REDACTED] non-profit voluntary corporations, which include [REDACTED]

[REDACTED]. However, [REDACTED] does not have formal affiliations with any other hospitals at this time. You currently provide your services to [REDACTED]

[REDACTED]. The latter [REDACTED] hospitals have no formal relationships with [REDACTED].

Within the States of [REDACTED], there are [REDACTED] independent providers of mobile CT Scan Services, namely, [REDACTED]

[REDACTED] (which currently has a Certificate of Need approval for the provision of mobile CT services within the State of [REDACTED]). These [REDACTED] organizations are for profit organizations. [REDACTED], a national chain, currently services [REDACTED] hospitals within [REDACTED]. [REDACTED] provides mobile CT scans to [REDACTED] hospitals in [REDACTED]. [REDACTED] is not yet operational. Your prices and services are competitive with both [REDACTED] and [REDACTED]. Your contract with the hospitals you service establishes you as the exclusive supplier of services. Your services are available to the patients and to physicians at the site of the hospital.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(e) of the Income Tax Regulations provides that an organization which is organized and operated for the primary purpose of carrying on a trade or business is not exempt under section 501(c)(3).

Section 502(a) of the Code provides that an organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501.

The House Committee Report (House Report No. 2319, Eighty-First Congress, 1950-2 C.R. 412) in explaining the reasons for amending section 502, said: "The effect of this amendment is to prevent the exemption of a trade or business organization under 101 (predecessor to section 501 of the 1954 Code) on grounds that an organization actually described in section 101 receives the earnings from the operation. In any case, it appears clear to your committee that such organization is not itself carrying out an exempt purpose. Moreover, it obviously is in direct competition with other taxable business.***"

Section 1.512-1(b) of the regulations states that if a subsidiary organization of a tax-exempt organization would itself be exempt on the ground that its activities are an integral part of the exempt activities of the parent organization, its exemption will not be lost because, as a matter of accounting between the two organizations, the subsidiary derives a profit from its dealings with its parent organization, for example, a subsidiary organization which is operated for the sole purpose of furnishing electric power used by its parent organization, a tax-exempt educational organization, in carrying on its educational purposes. However, the subsidiary organization is not exempt from tax if it is operated for the primary purpose of carrying on a trade or business which would be an unrelated trade or business (that is, unrelated to exempt activities) if regularly carried on by the parent organization. For example, if a subsidiary organization is operated primarily for the purpose of furnishing electric power to consumers other than its parent organization (and the parents tax-exempt subsidiary organizations), it is not exempt since such business would be an unrelated trade of business if regularly carried on by the parent organization. For the purpose of this paragraph of the regulations, organizations are related only if they consist of subsidiary organizations having a common parent organization. Also, an exempt organization is not related to another exempt organization merely because they both engage in the same type of exempt activities.

The information you submitted discloses that you are providing mobile CT Scanner services to [REDACTED] hospitals, only one of which has a formal relationship with [REDACTED] and which is a subsidiary of a tax-exempt parent organization. Under the contract with those hospitals, you are the exclusive supplier of your services. Your prices and services are competitive with those of several private, for-profit organizations that are providing similar services in the area in which you operate. As stated in the Committee Report, you are in direct competition with other taxable businesses. Thus, it is apparent that your activities themselves cannot be termed charitable, but are ordinary business activities. Under the provisions of section 512 of the Code, and the regulations thereunder, you are engaged in a trade or business which inhibits exemption under section 501. Further, as provided by section 1.501(c)(3)-1(e) of the regulations, you are not entitled to recognition of exemption under section 501(c)(3).

Accordingly, you do not qualify for recognition of exemption from federal income tax under section 501(c)(3) of the Code. You are, therefore, required to file federal income tax returns. Contributions to you are not deductible under section 170.

stated in the Committee Report, you are in direct competition with other taxable businesses. Thus, it is apparent that your activities themselves cannot be termed charitable, but are ordinary business activities. Under the provisions of section 512 of the Code, and the regulations thereunder, you are engaged in a trade or business which inhibits exemption under section 511. Further, as provided by section 1.511(c)(3)-1(e) of the regulations, you are not entitled to recognition of exemption under section 511(c)(3).

With respect to your mobile CT Scanner services for unrelated hospitals, we see no unique circumstances, within the intentment of Rev. Rul. 85-117 (supra), whereby your services may be said to further your exempt function. As concluded by the revenue ruling, the conduct of such services by you for unrelated hospitals would constitute an unrelated trade or business within the meaning of section 513 of the Code and exemption under section 511(c)(3) would be inhibited.

Accordingly, you do not qualify for recognition of exemption from federal income tax under section 511(c)(3) of the Code. You are, therefore, required to file federal income tax returns. Contributions to you are not deductible under section 170.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

[REDACTED]

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director, Brooklyn, New York. Also, the appropriate State officials will be notified of this action in accordance with section 6104 (c) of the Code.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address: Internal Revenue Service, Attn: [REDACTED], 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
Ruling Branch

cc: [REDACTED]

cc: [REDACTED]
[REDACTED]